

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JASON SETH PERRY,)	
)	
Plaintiff,)	
)	
v.)	No. 1:18-cv-02437-JPH-MJD
)	
FRANK LITTLEJOHN, <i>et al.</i>)	
)	
Defendants.)	

ORDER DENYING MOTION FOR AN EXTENSION OF TIME

Plaintiff Jason Perry seeks an extension of the defendants' deadline to depose him. He contends that the motion for leave to depose him was filed in violation of Local Rules 5-2(a), 5-4(b), and Rule 5(b)(2)(E) of the Federal Rules of Civil Procedure.

Local Rule 5-2(a) provides: "Electronic filing of documents is generally required...." Local Rule 5-4(b) provides: "Electronic transmission of a document to the Electronic Case Filing System consistent with these rules, together with the transmission of a notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and the Court's local rules." Rule 5(b)(2)(E) of the Federal Rules of Civil Procedure provides that service is complete by "sending [a paper] by electronic means if the person consented in writing—in which event service is complete upon transmission, but is not effective if the serving party learns that it did not reach the person served."

Mr. Perry states that he received a copy of the motion to depose him by mail. He appears to assert that this service did not comply with the Rules mentioned above because the motion should have been served on him electronically. Mr. Perry misunderstands the purpose of these Rules. These Rules allow for filing of documents with the Court electronically. Further, service of

electronic filings on parties to a case is generally made through the Court's Electronic Case Filing system. However, service is not made electronically on parties, such as *pro se* parties, who do not participate in Electronic Case Filing. Service by mail on Mr. Perry was proper. Fed. R. Civ. P. 5(b)(2)(C) (service of a filing can be made by "mailing it to the person's last known address...."). This is the case even though Mr. Perry participates in the Court's prisoner e-filing program. The General Order governing that program provides for electronic service to participating inmates of documents "issued by the Court." *In re: Prisoner Electronic Filing Program*, 1:13-mc-00056-RLY (May 30, 2013). Specifically, that Order provides, "It is the responsibility of defendants and non-inmate parties, not the Library Staff, to mail to the inmate, *via the U.S. Postal Service*, copies of any documents filed with the Court, whether filed electronically, on paper or in other format." *Id.* (emphasis added).

In short, service of the motion for time on Mr. Perry by mail was appropriate. In addition, to the extent he states that he is working on several pending cases, he has been given adequate notice of the deposition in this case. Accordingly, his motion for an extension of time, dkt. [79], is **DENIED.**

SO ORDERED.

Date: 10/30/2019

Distribution:

JASON SETH PERRY
138925

WABASH VALLEY - CF

WABASH VALLEY CORRECTIONAL FACILITY - Inmate Mail/Parcels
Electronic Service Participant – Court Only

All Electronically Registered Counsel



James Patrick Hanlon
United States District Judge
Southern District of Indiana